

EXECUTIVE BRANCH REORGANIZATION ACT OF 1983
RSA 21-G

21-G:1 Short Title. – This chapter shall be known as the Executive Branch Reorganization Act of 1983.

21-G:2 Declaration of Findings. – The general court finds that:

I. The state constitution provides for the separation of powers within state government among the legislative, the executive and the judicial branches. The legislative branch has the broad objective and responsibility to determine policies and programs and to review and oversee program performance and implementation of policy previously established. The executive branch has the responsibility to implement and administer these policies and programs. The judicial branch has the responsibility to resolve disputes arising from the interpretation or application of the laws;

II. The growth of the executive branch from 32 constitutional offices and state agencies in 1900, to 96 in 1970, to more than 140 in 1983, has created an unwieldy and confusing state government structure. This structure has developed piecemeal, resulting in lack of policy coordination, excessive costs, inefficient use of personnel and capital, overlapping agency jurisdictions, duplication, and the ineffective use of the state's limited financial resources; and

III. The size and complexity of the executive branch, including the unnecessarily confusing current array of administrative terms, titles, and appointment processes, has unintentionally altered some of the constitutionally contemplated checks and balances by an unplanned shifting of policy direction and implementation toward the independent, non-elected executive branch agencies. This reduces the ability of the legislature to assert its primary role as policymaker and the ability of the governor to manage the implementation of that policy.

21-G:3 Declaration of Policy. – The general court declares the following to be the policy and objectives of the state:

I. The organization of state government should assure its responsiveness to popular control, as expressed through the state's elected officials. It is the goal of reorganization to improve legislative policymaking capability and to improve the administrative capability of the executive to carry out these policies.

II. The organization of state government should facilitate communication between citizens and government. It is the goal of reorganization through coordination of related programs in function-oriented departments to improve public understanding of government programs and policies, by more clearly defining the jurisdiction of departments, and to improve the relationships between citizens and administrative agencies.

III. The organization of state government should assure efficient, effective and responsive administration of the policies established by the legislature. It is the goal of reorganization to improve the coordination and management of state services by establishing clear lines of authority, responsibility and accountability for program implementation within the executive branch.

IV. The governor should meet regularly with the heads of all agencies. Communication and exchange of information and ideas among the agency heads, as well as between agency heads and the governor, should be the goal of these meetings.

21-G:4 Guidelines for Reorganization. – The following provisions shall serve as general guidelines for accomplishing executive branch reorganization consistent with the policy and objectives of the state:

I. In order to allow the chief executive to efficiently and effectively implement legislative policy and programs, the governor should be provided with a manageable administrative structure and the authority to direct its operations.

II. The large number of existing executive branch agencies, departments, boards, commissions, authorities and institutions should be significantly reduced by consolidating them into a reasonable number of departments.

III. The consolidation of agencies in the executive branch should be on a functional basis, so that programs can be coordinated and comprehensive planning can be undertaken..

IV. Structural reorganization should be a continuing process through careful executive and legislative appraisal of the placement of proposed new programs, and the coordination of existing programs, in response to changing public needs.

V. There should be a uniform process for administrative appeals to an impartial body provided for each department established following July 1, 1983.

21-G:5 Definitions. – In this chapter, the following words shall have the following meanings:

I. "Administratively attached agency" means an independent agency linked to a department for purposes of reporting and sharing support services.

II. "Advisory committee" means a committee established pursuant to RSA 21-G:11 which shall furnish advice, gather information, make recommendations and perform such other activities as may be instructed or as may be necessary to fulfill advisory functions or to comply with federal funding requirements, but which shall not administer a program or function or set policy.

III. "Agency" means any department, commission, board, institution, bureau, office, or other entity, by whatever name called, other than the legislative and judicial branches of state government, established in the state constitution, statutes, session laws or executive orders.

IV. "Bureau" means the principal unit within a division, which is directly responsible to the division level and is concerned with individual program management.

V. "Commissioner" means the individual in charge of the operations of a department, who is directly responsible to the governor.

VI. "Department" means the principal administrative unit within the executive branch of state government, which is concerned with broad functional responsibilities.

VII. "Division" means the principal unit within a department, which is directly responsible to the department level and is concerned with related major functional programs and activities.

VIII. "Field operations" means district or area offices which may combine division, bureau and section functions.

IX. "Section" means the principal unit of a bureau, which is directly responsible to the bureau level and is concerned with direct provision of services to the public or other state agencies.

X. "Subsection" means the principal unit of a section which is directly responsible to the section level and is concerned with direct provision of services to the public or other state agencies.

21-G:5-a Statements of Financial Interest for Board and Commission Members. – Repealed by Chapter 21, Laws of 2006

21-G:6 Structure of Executive Branch. – All departments of the state established following July 1, 1983, shall be structured as follows, unless otherwise provided for specifically by the general court:

I. The department shall be the principal administrative unit of the executive branch, and each department shall be headed by a commissioner. Each department shall bear a title beginning with the words "The State of New Hampshire Department of" and continuing with the name designated for the department.

II. All departments shall adhere to the following operational structure and standard terminology:

(a) The principal unit of the department shall be the division; and each division shall be headed by a director.

(b) The principal unit of the division shall be the bureau; and each bureau shall be headed by an administrator.

(c) The principal unit of the bureau shall be the section; and each section shall be headed by a supervisor.

(d) If further subdivision is necessary, sections may be divided into subsections; and each subsection shall be headed by a chief.

21-G:7 Field Operations. –

I. A department shall not establish field operations unless specifically authorized to do so by statute; except that temporary field operations may be established upon a specific written declaration by the governor and council that an emergency exists. A temporary field operation shall not be continued beyond the adjournment of the next regular or special session of the general court following a declaration of emergency.

II. Legislative proposals by a department seeking establishment of field operations shall include evidence of the commissioner's written certification to the governor and council that all other agencies with field operations in the same vicinity of the state have been consulted to determine the feasibility of combining such field operations.

21-G:8 Commissioners and Division Directors; Appointment; Term. –

I. The commissioners of all departments established after July 1, 1983, shall be appointed by the governor, with the consent of the council, except as otherwise provided by law. Each commissioner shall be an unclassified employee.

II. Each commissioner shall nominate for appointment by the governor, with the consent of the council, each division director within the commissioner's department, for all departments established after July 1, 1983, except as otherwise provided by law. Each division director shall be an unclassified employee.

III. Commissioners shall serve terms of 4 years. Such terms shall end on March 31 of an odd-numbered year. Initial terms for some commissioners may be for approximately 2 years so that the terms of one-half of the commissioners will end in each gubernatorial term.

IV. Division directors shall serve terms of 4 years. Such terms shall end on March 31 of an even-numbered year. Initial terms for some directors may be for approximately 2 years so that the terms of one-half of the directors will end one year after a commissioner's terms commences and one-half 3 years after that date.

21-G:9 Powers and Duties of Commissioners. – The commissioner shall be the chief administrative officer of the department and shall have the following powers and duties:

I. The commissioner shall manage all operations of the department and administer and enforce the laws with which the commissioner or the department is charged. The commissioner shall report directly to the governor.

II. To perform the commissioner's duties, the commissioner shall have every power enumerated in the laws, whether granted to the commissioner, the department, or any administrative unit of the department. In accordance with these provisions, the commissioner shall:

(a) Biennially compile a comprehensive program budget which reflects all fiscal matters related to the operation of the department and each program and activity of the department.

(b) Adopt all rules of the department, whether the rulemaking authority delegated by the legislature is granted to the commissioner, the department, or any administrative unit or subordinate official of the department. All rules shall be adopted pursuant to RSA 541-A, unless specifically and explicitly exempted by law. The provisions of this subparagraph shall control existing legislative enactments unless the provisions of RSA 21-H through RSA 21-P that created the department specifically and clearly confer rulemaking authority on an administrative unit or a subordinate official. The provisions of this subparagraph shall also apply to subsequent legislative enactments unless such enactments are contained in RSA 21-H through RSA 21-P or are specifically exempted from the application of the provisions of this subparagraph by language expressly referring to this subparagraph. For the purposes of this subparagraph, "commissioner of the department of education" means the state board of education.

(c) Exercise general supervisory and appointing authority over all department employees, subject to applicable personnel statutes and rules.

(d) Delegate authority to subordinates as the commissioner deems necessary and appropriate, except that rulemaking authority shall not be delegated. The commissioner shall provide by delegation for a division director to exercise all authority of the commissioner in the commissioner's absence. All such delegations shall be made in writing, shall be disseminated to all division directors, shall clearly delineate the authority delegated and the limitations thereto, and shall be kept on file in the commissioner's office.

(e) Adopt practices which will improve the efficiency of the department and the provision of services to the citizens of the state.

(f) Provide cooperation, at the request of the heads of administratively attached agencies, in order to:

- (1) Minimize or eliminate duplication of services and jurisdictional conflicts;
- (2) Coordinate activities and resolve problems of mutual concern; and
- (3) Resolve by agreement the manner and extent to which the department shall provide budgeting, recordkeeping and related clerical assistance to administratively attached agencies.

(g) Give bond, and require division directors to give bond, to the state as specified in RSA 93-B.

(h) Where functions of departments overlap or a function assigned to one department could better be performed by another department, a commissioner shall recommend appropriate legislation to the next regular session of the legislature.

III. The commissioner may adopt such reasonable internal practices and procedures as may be necessary to carry out the duties of the department and its divisions consistent with this chapter.

IV. The commissioner may not accept, on behalf of the department, any grants of money without first obtaining the express consent of the legislative fiscal committee established by RSA 14:30-a.

V. It shall be the duty of all commissioners of executive branch agencies to continually reassess the organization of their agencies, especially with regard to new programs and functions assigned to them, and to propose legislation to the general court to accomplish internal reorganizations deemed desirable.

21-G:10 Administratively Attached Agency. –

I. An agency administratively attached to a department shall:

- (a) Exercise its powers, duties, functions and responsibilities independently of the department and without approval or control of the department, except as otherwise specifically provided by statute;
- (b) Submit the budget requests required by RSA 9 through the department; and
- (c) Submit reports required of it by law or by the governor through the department.

II. The department to which an agency is administratively attached shall:

(a) Provide budgeting, recordkeeping and related administrative and clerical assistance to the agency, if mutually agreed to in writing, provided that the agency shall pay the department on a cost allocation basis for such services;

(b) Include the agency's budget requests, as submitted and without changes, in the departmental budget.

III. Unless otherwise provided by law, the administratively attached agency shall hire personnel in accordance with state personnel laws.

21-G:11 Advisory Committees. –

I. A commissioner, with the approval of the governor, may create advisory committees.

II. Each department shall file a record of each advisory committee created with the secretary of state, showing the committee's:

- (a) Name;
- (b) Composition;
- (c) Appointed members' names and addresses; and
- (d) Purpose and term of existence.

III. The governor shall appoint the members of each advisory committee, with the advice of the commissioner, who shall have prescribed the functions of each advisory committee created.

IV. Each advisory committee created under this section shall be designated by name as follows: the "..... advisory committee of the department of ...".

V. A majority of the membership of an advisory committee shall constitute a quorum.

VI. No member of an advisory committee shall receive any compensation, for services rendered the advisory committee, except mileage payments at the state employee rate, within the limits of the department's appropriations.

VII. Each advisory committee created under this section after July 1, 1995, shall include a provision for its termination after a 3-year period unless continued by legislative action.

21-G:12 Conflicts of Law. – If the provisions of RSA 21-G:9 or RSA 21-G:11 conflict with the powers and duties specifically granted by statute to a particular commissioner, the specific powers and duties shall control. If the provisions of RSA 21-G:9 or RSA 21-G:11 conflict with other statutes specifically limiting the powers of a commissioner, the specific limitations shall control.

21-G:13 Transfer of Functions of Abolished Agencies. –

I. The powers, duties, functions, responsibilities, programs and operations of each agency abolished pursuant to acts of the general court relative to executive branch reorganization shall, upon and after the date of each abolition, be exercised and performed by the commissioner of the department to which such powers, duties, functions and responsibilities are transferred.

II. The commissioner of each department shall have full authority, consistent with this chapter, to assign powers, duties, functions, responsibilities, programs and operations of abolished agencies to any division within the department, or may determine that any or all of them shall be exercised in such other manner as shall be allowed by law. The commissioner shall make such assignment or determination in accordance with the general functions of each division, as established by the general court.

III. Upon the abolition of each agency whose powers, duties, functions and responsibilities are transferred in accordance with this section, any pending or unfinished business of each such agency shall be taken over and be completed by the department to which transferred and its commissioner, with the same power and authority as that of the agency abolished. The department and its commissioner shall be the successor in every way to each such agency, and every act done by the department or its commissioner in the exercise of the functions of each shall be deemed to have the same force and effect under any provisions of the constitution and laws in effect on July 1, 1983, as if done by the agency abolished.

IV. Upon the abolition of each agency whose powers, duties, functions and responsibilities are transferred in accordance with this section, the existing rules of each agency shall continue in full effect, without interruption, as the rules of the department to which those powers, duties, functions and responsibilities have been transferred. Rules so continued shall be effective for the remainder of the period originally established under RSA 541-A:17, I.

21-G:14 Legal Proceedings and Documents. –

I. For purposes of this section, legal proceeding includes, but is not limited to, any suit, action, incidental demand or action, claim, and any other matter filed or pending before any court, administrative agency, or other quasi-judicial body.

II. For purposes of this section, document includes, but is not limited to, any petition, application, exception, motion, rule, answer, citation, notice, return, affidavit, certificate, oath, bond or other security, summons, subpoena, writ, interrogatory, deposition, inventory, appraisal, evidence, court record, instruction, verdict, judgment, order, injunction, confirmation, appointment, warrant, letter, and any other pleading or instrument whatsoever permitted or required in any legal proceeding.

III. Any legal proceeding to which any agency which is abolished, whose powers, duties, functions, and responsibilities are transferred in accordance with the provisions of this chapter, is a party, and which is filed, initiated, or otherwise pending before any court on the effective date of such abolition and transfer, and all documents involved in or affected by such legal proceeding, shall retain their effectiveness and shall be continued in the name of the agency abolished. All further legal proceedings and documents in the continuation, disposition, and enforcement of such legal proceedings shall be in the name of the original party agency which is abolished; and the department to which the powers, duties, functions, and responsibilities of the agency are transferred shall be substituted for the original party agency without necessity for amendment of any document to substitute the name of the department or the name or title of any subdivision, official, employee, or other agent or representative of the department.

21-G:15 Protection of Obligations. –

I. The general court hereby specifically states that this chapter is in no way and to no extent intended to, nor shall it be construed in any manner to, impair the contractual or other obligations of any agency abolished by the general court or of the state of New Hampshire. It is hereby specifically provided that all obligations of any agency abolished, whose powers, duties, functions, and responsibilities are transferred in accordance with this chapter, hereafter shall be deemed to be the obligations of the department to which the powers, duties, functions, and responsibilities of the agency are transferred, and of its commissioner, to the same extent as if originally made by

them. In like manner, and in order to prevent any violation of the provisions, terms, or conditions of any gift, donation, deed, will, trust, or other instrument or disposition by which property of any kind has been vested in an agency abolished by the general court, or diversion from the purposes for which such property was thus vested in any such agency, it is hereby specifically provided that each such instrument or disposition hereafter shall be deemed to have been vested in the department to which the powers, duties, functions, and responsibilities of the agency are transferred, and its commissioner, in the same manner and to the same extent as if originally so done.

II. The department to which the powers, duties, functions, and responsibilities of each such agency are transferred and its commissioner shall be the successor in every way to each such agency, including all of the obligations and debts of each such agency. All funds heretofore dedicated by or under authority of the constitution and laws of this state, or any of its subdivisions, to the payment of any bonds issued for construction or improvements for any institution or facility under the control of any such agency shall continue to be collected and dedicated to the payment of those bonds. In like manner, all other dedications and allocations of revenues and sources of revenues heretofore made shall continue in the same manner, to the same extent, and for the same purposes as were provided prior to the enactment of this chapter, and shall so continue, notwithstanding the passage of any laws by the general court relative to reorganization of the executive branch.

21-G:16 Effect on Federal Law. – This chapter and any laws enacted by the general court relative to executive branch reorganization shall not be construed or applied in any way which will prevent full compliance by the state, or any department, office, or agency thereof, with the requirements of any act of the Congress of the United States or any regulation made thereunder by which federal aid or other federal assistance has been or hereafter is made available to this state, or any department, office, agency, or subdivision thereof; and such compliance hereafter shall be accomplished by the commissioner insofar as such compliance affects any abolished agency whose powers, duties, functions, and responsibilities are transferred in accordance with the provisions of this chapter and any laws enacted by the general court relative to executive branch reorganization.

21-G:17 Transfer of Property. – All books, papers, records and unexpended appropriations or other funds, actions, and other property of every kind, movable and immovable, real and personal, heretofore possessed, controlled, or used by each agency abolished whose powers, duties, functions and responsibilities are transferred in accordance with this chapter and any laws enacted by the general court relative to executive branch reorganization are hereby transferred to the department to which such powers, duties, functions, and responsibilities are transferred.

21-G:18 Transfer of Employees. – All employees heretofore engaged in the performance of duties in each agency abolished whose powers, duties, functions, and responsibilities are transferred in accordance with this chapter and any laws enacted by the general court relative to executive branch reorganization are hereby transferred to the department to which such powers, duties, functions, and responsibilities are transferred to the extent the commissioner deems necessary to carry out the functions of the abolished agency and shall, insofar as practicable and necessary, continue to perform the duties heretofore performed, subject to applicable personnel statutes.

21-G:19 Reference to Abolished Agency. – Wherever any agency abolished, whose powers, duties, functions, and responsibilities are transferred in accordance with this chapter and any laws enacted by the general court relative to executive branch reorganization, is referred to or designated by any law or contract or other document after the effective date of the abolition of such agency, such reference or designation shall be deemed to apply to the department to which the transfer is made or to its commissioner.

21-G:20 New Agencies and Programs. –

I. After July 1, 1983, no agency, as defined in RSA 21-G:5, III, shall be established unless it shall be structured in accordance with this chapter.

II. After July 1, 1983, no new powers, duties, functions, responsibilities or programs shall be assigned to any agency, as defined in RSA 21-G:5, III, except an agency which exists on July 1, 1983, or an agency established by the general court in accordance with the provisions of this chapter and any laws enacted by the general court relative to executive branch reorganization.

21-G:21 Definitions. – In this subdivision:

I. "Agency" means any executive branch agency, department, division, board, commission, or entity of the executive branch.

II. "Conflict of interest" means a situation, circumstance, or financial interest which has the potential to cause a private interest to interfere with the proper exercise of a public duty.

II-a. "Executive branch official" means every elected official as defined by RSA 15-B:2, III, who holds an executive branch office, every public official as defined by RSA 15-B:2, X, every constitutional official as defined by RSA 15-B:2, II, and every public employee as defined by RSA 15-B:2, IX.

III. Repealed by Chapter 21, Laws of 2006

IV. Repealed by Chapter 21, Laws of 2006

21-G:22 Conflict of Interest. Executive branch officials shall avoid conflicts of interest. Executive branch officials shall not participate in any matter in which they, or their spouse or dependents, have a private interest which may directly or indirectly affect or influence the performance of their duties.

21-G:23 Misuse of Position. No executive branch official shall:

I. Disclose or use confidential or privileged information acquired in the performance of his or her duties for the state for personal benefit or for financial gain.

II. Use his or her position with the state to secure privileges or advantages for himself or herself, which are not generally available to governmental employees, or to secure governmental privileges or advantages for others.

21-G:24 Acceptance of Campaign Contributions. An executive branch official who is a candidate for an elective office that is not subject to the reporting requirements of RSA 664 and who accepts a political contribution from any person or entity which is or is likely to become subject to that executive branch official's duties shall make a disclosure of such contributions to the secretary of state within 5 days of receipt of such contributions. The disclosure shall be in writing and on such form as the secretary of state shall prescribe.

21-G:25 Restrictions on Simultaneous Employment and Public Service. Volunteer service shall not be used, directly or indirectly, for personal financial gain, or to facilitate non-public communications with executive branch officials for the purpose of promoting or advancing any matter on behalf of a third party, or to influence executive branch officials in the performance of their duties. In furtherance of this prohibition:

I. No person shall serve as a public employee, as defined by RSA 15-B:2, IX, or serve as an appointee or volunteer for any multi-branch commission, committee, board, or similar governmental entity, and simultaneously be a person who has a duty to register as a lobbyist pursuant to RSA 15, or is employed by, or maintains an ownership interest in, any entity which employs a registered lobbyist.

II. No person shall serve as a public employee in a position that establishes policy or adjudicates matters before any agency while maintaining any ownership interest in, or being employed by, any entity, engaged in promoting or opposing, directly or indirectly, any legislation pending or proposed before the general court, or promoting or opposing any action or inaction on any matter, contract, license, permit, or administrative rule, proposed or pending, before the executive branch.

III. Unless otherwise prohibited by law, the prohibitions of RSA 21-G:25, I and II, shall not apply to:

(a) Appearances before the courts or any adjudicative proceedings, or non-adjudicative processes, as defined by RSA 541-A;

(b) Service in a position subject to appointment by the governor and council;

(c) Testimony or participation in any public meeting, or service on any commission, committee, board, panel, or other similar governmental entity that is subject to the public meeting and notice requirements of RSA 91-A, or the public right of access mandated by part 1, article 8 of the New Hampshire constitution.

(d) Volunteer public service related entirely to a ceremonial, celebratory, historical, or recreational program or event; public health or safety incident or drill, or consumer protection assistance;

(e) Ownership of publicly-traded stock; or

(f) A public employee, appointee, or volunteer's personal application for any license, permit, or ruling from a state agency.

21-G:26 Employment Restrictions. For 6 months after leaving office or employment with the state, no executive branch official shall appear as a lobbyist:

I. To promote or oppose directly any specific legislation pending or proposed before the general court ; *or*

II. To directly promote or oppose action or inaction on any matter, contract, license, permit, or administrative rule pending before the executive branch or with regard to any matter over which that *executive branch* official had personal and direct responsibility while in state government.

21-G:27 Supplemental State Agency Ethical Codes. In addition to this code, each agency may promulgate a supplemental ethics code to address issues specific to that agency. In the event of a conflict with the provisions of this code, a stricter provision of an agency code shall govern. To the extent that this code or an ethics code adopted by an agency shall apply to classified employees, this code, or an agency code, shall be interpreted to be consistent with the provisions of the classified employees' collective bargaining agreement and the state personnel rules.

21-G:28 Financial Disclosure. – Repealed by Chapter 21, Laws of 2006

21-G:29 Penalty. – Executive Branch Ethics Committee Established; Jurisdiction; Membership.

I. There is hereby established an executive branch ethics committee to issue guidelines, interpretive rulings, and advisory opinions relative to standards for ethical conduct in the executive branch and to resolve, through

procedures established under RSA 21-G:32, issues, questions, or complaints involving executive branch officials who are not classified employees.

II. The jurisdiction of the committee shall consist of matters arising under the executive branch code of ethics, RSA 21-G:21-27, RSA 15-A, RSA 15-B, and rules or guidelines adopted thereunder, as applied to executive branch officials who are not classified employees.

III. The committee shall consist of 7 members, nominated in the following manner:

(a) Three members, nominated by the governor, one of whom shall be a member of the democratic party, one of whom shall be a member of the republican party, and one of whom shall have no political party affiliation.

(b) Two members, nominated by the secretary of state, one of whom shall be a member of the democratic party and one of whom shall be a member of the republican party.

(c) Two members, nominated by the treasurer, one of whom shall be a member of the democratic party and one of whom shall be a member of the republican party.

IV. All nominations under paragraph III shall be confirmed by the governor and executive council.

V. Persons appointed to the committee shall be qualified by excellent personal reputation and by education or experience in public service, in resolving ethical issues facing persons in public service, or in the law. No executive branch official shall serve as a committee member, and no person who has registered as a lobbyist under RSA 15:1 shall serve as a committee member, or for 6 months following the expiration of such registration.

VI. Committee members shall serve terms of 3 years and until their successors are appointed and qualified. However, initially, the governor shall nominate one member for a one-year term, one member for a 2-year term and one member for a 3-year term; the secretary of state shall nominate one member for a 2-year term, and one member for a 3-year term; the treasurer shall nominate one member for a one-year term and one member for a 2-year term. Initial nominations to the committee shall be made no later than 90 days after the effective date of this section. The initial appointments shall begin on July 1, 2006 and end on June 30 of the appropriate year. Vacancies shall be filled for the remainder of any unexpired term. During their term of appointment, members may not hold or campaign for elective office, serve as an officer of any political party or political committee, permit their names to be used in support of or in opposition to any candidate or proposition, participate in any way in any election campaign, make a contribution as defined in RSA 664:2 to any candidate for office or political committee, or act as or assist a lobbyist required to be registered under RSA 15:1.

VII. The governor shall designate one of the governor's appointees as chair, who shall convene the first meeting, which shall take place no later than 30 days after a majority of the membership has been appointed. The members shall elect by majority vote a vice-chair and secretary from the remaining members.

VIII. Committee members shall receive no compensation, except that committee members shall receive mileage at the state employee rate.

21-G:30 Duties.

I. The committee shall be authorized to:

(a) Issue guidelines consistent with the executive branch code of ethics, RSA 21-G:21-27, RSA 15-A, and RSA 15-B, relative to proper and appropriate conduct for individuals relating to the performance of their duties as executive branch officials. Such guidelines shall be consistent with statute.

(b) Issue interpretative rulings explaining and clarifying any law, guideline, rule, or regulation within the jurisdiction of the committee.

(c) Render an advisory opinion, in writing within a reasonable time, in response to a written request by a person subject to any law, guideline, rule, or regulation concerning the application of any law, guideline, rule, or regulation within the committee's jurisdiction to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion. Any advisory opinion concerning any person subject to the provisions of this subdivision who acted in reliance thereon, shall be binding upon the committee, and it shall be an absolute defense in any complaint brought under this subdivision that the person complained against acted in reliance upon such advisory opinion. The name of the person seeking an advisory opinion and any information in the opinion that would identify such person shall be non-public. A redacted version of the advisory opinion shall be public.

(d) Receive sworn complaints, investigate allegations of violations of this subdivision or guidelines adopted thereunder by executive branch officials and make appropriate findings of fact and conclusions with respect to such conduct.

(e) Investigate any unauthorized disclosure of information by any committee member or assistant and report to the appropriate authority any allegation which it finds to be substantiated.

II. All actions of the committee shall require an affirmative vote of 4 or more members of the committee before becoming effective, except that a vote to summarily dismiss a complaint shall be unanimous, and a vote to dismiss a complaint after only an internal review and no investigation shall be by an affirmative vote of no less than 5 members of the committee and a vote pursuant to RSA 21-G:31, VII shall require only a majority of the members present and voting. The committee shall request to meet with the legislative ethics committee established under RSA 14-B at least twice yearly to facilitate uniformity in the interpretation of statutory provisions.

III. The committee shall provide the legislative ethics committee with copies of all publicly issued guidelines, procedures, decisions, or opinions.

21-G:31 Complaints; Procedure.

I. Each complaint shall be submitted in writing and signed under oath by the complainant. The sworn complaint shall be filed confidentially with the committee and shall contain the name and address of the complainant. Before any other action is taken by the committee, the executive branch official complained against shall be furnished with a copy of the complaint and a copy shall be sent to each member of the committee for review. The committee may initiate a complaint on its own motion against any individual the committee has reason to believe has violated any law, guideline, rule, or regulation within the committee's jurisdiction. The committee shall promptly examine each sworn complaint and:

(a) Upon first examination, if by a unanimous vote it determines that a complaint is frivolous, scurrilous, retaliatory in nature, or plainly not within the committee's jurisdiction, the committee may summarily discharge the complaint without further meeting or proceeding. The committee shall notify the respondent and complainant in writing of its action.

(b) For any complaint not summarily discharged, the committee shall conduct an initial review to ascertain whether the committee has jurisdiction to consider the complaint or whether the complaint is without merit or is unfounded. If the committee concludes by a recorded affirmative vote of no less than 5 members of the committee that the alleged conduct is not within the committee's jurisdiction, is without merit, or is unfounded, the committee shall dismiss the complaint and shall report such conclusion to the complainant and to the executive branch official, with an explanation of the basis of such determination.

II. If the committee, by recorded vote, concludes that the complaint is within its jurisdiction and may have merit, the committee may proceed to conduct a preliminary investigation. Upon completion of its preliminary investigation, the committee shall conclude by recorded vote that:

(a) No violation occurred and no further action is appropriate;

(b) The violation is inadvertent, technical, or of a de minimis nature and shall be addressed by informal methods; or

(c) There are reasonable grounds to believe a violation occurred and formal proceedings shall be instituted to inquire further into the complaint. In that event, the committee shall issue a formal statement of charges and proceed to a hearing on the complaint.

III. Upon completion of the hearing, the committee shall conclude by recorded vote that:

(a) No violation occurred and no further action is appropriate;

(b) No action is appropriate because there is not clear and convincing evidence that a violation occurred;

(c) Based upon clear and convincing evidence, a violation occurred, but such violation does not justify formal disciplinary action and shall be resolved by informal methods; or

(d) Based upon clear and convincing evidence, a violation occurred, and the violation was of a serious nature so as to warrant formal disciplinary action. In the case of a finding of violation by a executive branch official, the committee may recommend disciplinary action by the appropriate body, including but not limited to a recommendation for disciplinary action by the executive branch official's supervisor, removal from office under RSA 4:1, or, in the case of the governor, executive council member, or other officer of the state, impeachment or other appropriate action pursuant to part II, article 38 of the New Hampshire constitution. In addition to any recommendation for disciplinary action under this subparagraph, the committee may refer the case to the department of justice for criminal prosecution. In the event that conduct may constitute both a criminal act and misconduct subject to the jurisdiction of the committee, the committee may on its own motion or by motion of the attorney general suspend its investigation or a pending hearing for the time period reasonably necessary to avoid compromising a criminal prosecution.

IV. Any person who knowingly or willfully swears falsely to a sworn complaint does so under penalty of perjury, and the committee may refer any such case to the department of justice for prosecution.

V. Except as otherwise provided in this paragraph and notwithstanding any other provision of law, all proceedings, information, communications, materials, papers, files, and transcripts, written or oral, received or developed by the committee in the course of its work, shall be confidential. The committee shall first examine any sworn complaint and shall conduct its initial review and preliminary investigation of complaints in a confidential manner, unless otherwise requested by the executive branch official complained against. The committee shall conduct formal proceedings, other than its deliberations, in public session. The committee's deliberations on complaints shall be conducted in nonpublic session. Upon completion of the preliminary investigation conducted under paragraph II or at the conclusion of formal proceedings under paragraph III, the committee shall make available for public inspection all records, other than its work product and internal memoranda relating to the complaint.

VI. In proceedings under this subdivision, the committee shall have the power to issue subpoenas and administer oaths.

VII Any member of the committee who is directly or indirectly involved in any complaint before the committee or who otherwise has personal knowledge of facts material to the determination of the complaint shall not participate in any proceedings regarding the complaint. In the event that recusals under this paragraph reduce the number of participating members to fewer than 4, the remaining participating members shall designate an alternate or alternates sufficient to increase the committee to 4 members, to serve on the committee for that case only.

21-G:32 Rules; Procedures and Standards. The committee shall adopt, publish, and make available to the public rules governing its procedures, including provisions for disqualification of members for conflict of interest and provisions for the committee to discipline its members for breach of committee procedures, as well as guidelines referred to in RSA 21-G:30, I, consistent with the procedures set forth in RSA 541-A.

21-G:33 Committee Administration and Staff. The committee shall be administratively attached to the department of justice, which shall provide appropriate administrative and investigative staff and legal counsel in support of the committee's activities, at the committee's request. Files and records of the committee shall be protected against access other than by members of the committee and other persons specifically authorized by the committee.

21-G:34 Penalty.

I. Any person who knowingly or willfully violates RSA 21-G:21-27 or makes unauthorized disclosure of confidential matters or materials contrary to RSA 21-G:31, or interferes with or obstructs lawful activities of the committee, shall be guilty of a misdemeanor and may be subject to disciplinary action as provided in RSA 21-G:31, III(d) and other applicable law.

II. In the case of any person convicted under this section, the court may order restitution.

21-G:35 Severability. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.